

06/12/01
U.S. PTO

06-13-01

PTO/SB/05 (08-00)

Approved for use through 10/31/2002 OMB 0651-0032

U S Patent and Trademark Office; U S. DEPARTMENT OF COMMERCE

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UTILITY PATENT APPLICATION TRANSMITTAL

(Only for new nonprovisional applications under 37 CFR 1.53(b))

APPLICATION ELEMENTS		ADDRESS TO: Assistant Commissioner for Patents Box Patent Application Washington, DC 20231																															
<p>See MPEP chapter 600 concerning utility patent application contents</p> <p>1. <input checked="" type="checkbox"/> Fee Transmittal Form (e.g., PTO/SB/17) <i>(Submit an original and a duplicate for fee processing)</i></p> <p>2. <input type="checkbox"/> Applicant claims small entity status. See 37 CFR 1.27.</p> <p>3. <input checked="" type="checkbox"/> Specification [Total Pages 25] [<i>preferred arrangement set forth below</i>] - Descriptive title of the invention - Cross Reference to Related Applications - Statement Regarding Fed sponsored R & D - Reference to sequence listing, a table, or a computer program listing appendix - Background of the Invention - Brief Summary of the Invention - Brief Description of the Drawings (<i>if filed</i>) - Detailed Description - Claim(s) - Abstract of the Disclosure</p> <p>4. <input checked="" type="checkbox"/> Drawing(s) (35 U.S.C. 113) [Total Sheets 4]</p> <p>5. Oath or Declaration [Total Pages 2] a. <input type="checkbox"/> Newly executed (original or copy) b. <input checked="" type="checkbox"/> Copy from a prior application (37 CFR 1.63 (d)) <i>(for continuation/divisional with Box 17 completed)</i> i. <input type="checkbox"/> DELETION OF INVENTOR(S) <i>Signed statement attached deleting inventor(s) named in the prior application, see 37 CFR 1.63(d)(2) and 1.33(b)</i></p> <p>6. <input type="checkbox"/> Application Data Sheet. See 37 CFR 1.76</p>																																	
<p>7. <input type="checkbox"/> CD-ROM or CD-R in duplicate, large table or Computer Program (Appendix)</p> <p>8. Nucleotide and/or Amino Acid Sequence Submission (<i>if applicable, all necessary</i>) a. <input type="checkbox"/> Computer Readable Form (CRF) b. Specification Sequence Listing on: i. <input type="checkbox"/> CD-ROM or CD-R (2 copies); or ii. <input type="checkbox"/> paper c. <input type="checkbox"/> Statements verifying identity of above copies</p>																																	
<p>ACCOMPANYING APPLICATION PARTS</p> <p>9. <input type="checkbox"/> Assignment Papers (cover sheet & document(s))</p> <p>10. <input type="checkbox"/> 37 CFR 3.73(b) Statement <input checked="" type="checkbox"/> Power of Attorney <i>(when there is an assignee)</i></p> <p>11. <input type="checkbox"/> English Translation Document (<i>if applicable</i>)</p> <p>12. <input checked="" type="checkbox"/> Information Disclosure Statement (IDS)/PTO-1449 <input type="checkbox"/> Copies of IDS Citations</p> <p>13. <input checked="" type="checkbox"/> Preliminary Amendment</p> <p>14. <input checked="" type="checkbox"/> Return Receipt Postcard (MPEP 503) <i>(Should be specifically itemized)</i></p> <p>15. <input type="checkbox"/> Certified Copy of Priority Document(s) <i>(if foreign priority is claimed)</i></p> <p>16. <input checked="" type="checkbox"/> Other: Express Mail Certificate Nonpublication Request.....</p>																																	
<p>17. If a CONTINUING APPLICATION, check appropriate box, and supply the requisite information below and in a preliminary amendment, or in an Application Data Sheet under 37 CFR 1.76: <input checked="" type="checkbox"/> Continuation <input type="checkbox"/> Divisional <input type="checkbox"/> Continuation-in-part (CIP) of prior application No. 09/731,422, _____</p> <p>Prior application information: Examiner Unknown Group / Art Unit. 2151</p> <p>For CONTINUATION OR DIVISIONAL APPS only: The entire disclosure of the prior application, from which an oath or declaration is supplied under Box 5b, is considered a part of the disclosure of the accompanying continuation or divisional application and is hereby incorporated by reference. The incorporation <u>can only</u> be relied upon when a portion has been inadvertently omitted from the submitted application parts.</p>																																	
<p>18. CORRESPONDENCE ADDRESS</p> <p><input type="checkbox"/> Customer Number or Bar Code Label or <input type="checkbox"/> Correspondence address below <i>(Insert Customer No. or Attach bar code label here)</i></p> <table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 25%;">Name</td> <td colspan="4">David L. McCombs</td> </tr> <tr> <td>Address</td> <td colspan="4">Haynes and Boone, LLP 901 Main Street, Suite 3100</td> </tr> <tr> <td>City</td> <td>Dallas</td> <td>State</td> <td>Texas</td> <td>Zip Code</td> </tr> <tr> <td>Country</td> <td>USA</td> <td>Telephone</td> <td>(214) 651-5533</td> <td>Fax</td> </tr> <tr> <td>Name (Print/Type)</td> <td colspan="2">David L. McCombs</td> <td>Registration No. (Attorney/Agent)</td> <td>32,271</td> </tr> <tr> <td>Signature</td> <td colspan="2"></td> <td>Date</td> <td>6/12/01</td> </tr> </table>				Name	David L. McCombs				Address	Haynes and Boone, LLP 901 Main Street, Suite 3100				City	Dallas	State	Texas	Zip Code	Country	USA	Telephone	(214) 651-5533	Fax	Name (Print/Type)	David L. McCombs		Registration No. (Attorney/Agent)	32,271	Signature			Date	6/12/01
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Signature			Date	6/12/01																													

Burden Hour Statement: This form is estimated to take 0.2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS SEND TO Assistant Commissioner for Patents, Box Patent Application, Washington, DC 20231

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FEE TRANSMITTAL for FY 2001

Patent fees are subject to annual revision.

TOTAL AMOUNT OF PAYMENT (\$ 782.00)

Complete if Known

Application Number	Continuation of 09/731,422
Filing Date	Herewith
First Named Inventor	Wipfel, et al
Examiner Name	Unknown
Group Art Unit	2151
Attorney Docket No.	26530.60

METHOD OF PAYMENT

1. The Commissioner is hereby authorized to charge indicated fees and credit any overpayments to

Deposit Account Number 08-1394

Deposit Account Name Haynes and Boone, LLP

 Charge Any Additional Fee Required Under 37 CFR 1.16 and 1.17 Applicant claims small entity status See 37 CFR 1.27

2. Payment Enclosed:

 Check Credit card Money Order Other

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
101 710	201 355	Utility filing fee	710.00
106 320	206 160	Design filing fee	
107 490	207 245	Plant filing fee	
108 710	208 355	Reissue filing fee	
114 150	214 75	Provisional filing fee	
SUBTOTAL (1) (\$)		710.00	

2. EXTRA CLAIM FEES

Total Claims	24	Extra Claims	Fee from below	Fee Paid
Independent Claims	3	-20** =	4 x 18 =	72
		- 3** =	0 x 80 =	0
Multiple Dependent			270 =	0

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
103 18	203 9	Claims in excess of 20
102 80	202 40	Independent claims in excess of 3
104 270	204 135	Multiple dependent claim, if not paid
109 80	209 40	** Reissue independent claims over original patent
110 18	210 9	** Reissue claims in excess of 20 and over original patent
SUBTOTAL (2) (\$)		72.00

**or number previously paid, if greater; For Reissues, see above

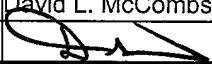
FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
105 130	205 65	Surcharge - late filing fee or oath	
127 50	227 25	Surcharge - late provisional filing fee or cover sheet	
139 130	139 130	Non-English specification	
147 2,520	147 2,520	For filing a request for ex parte reexamination	
112 920*	112 920*	Requesting publication of SIR prior to Examiner action	
113 1,840*	113 1,840*	Requesting publication of SIR after Examiner action	
115 110	215 55	Extension for reply within first month	
116 390	216 195	Extension for reply within second month	
117 890	217 445	Extension for reply within third month	
118 1,390	218 695	Extension for reply within fourth month	
128 1,890	228 945	Extension for reply within fifth month	
119 310	219 155	Notice of Appeal	
120 310	220 155	Filing a brief in support of an appeal	
121 270	221 135	Request for oral hearing	
138 1,510	138 1,510	Petition to institute a public use proceeding	
140 110	240 55	Petition to revive - unavoidable	
141 1,240	241 620	Petition to revive - unintentional	
142 1,240	242 620	Utility issue fee (or reissue)	
143 440	243 220	Design issue fee	
144 600	244 300	Plant issue fee	
122 130	122 130	Petitions to the Commissioner	
123 50	123 50	Petitions related to provisional applications	
126 240	126 240	Submission of Information Disclosure Stmt	
581 40	581 40	Recording each patent assignment per property (times number of properties)	
146 710	246 355	Filing a submission after final rejection (37 CFR § 1.129(a))	
149 710	249 355	For each additional invention to be examined (37 CFR § 1.129(b))	
179 710	279 355	Request for Continued Examination (RCE)	
169 900	169 900	Request for expedited examination of a design application	
Other fee (specify) _____			
Reduced by Basic Filing Fee Paid		SUBTOTAL (3) (\$)	

SUBMITTED BY

Complete (if applicable)

Name (Print/Type)	David L. McCombs	Registration No. (Attorney/Agent)	32,271	Telephone	214.651.5533
Signature				Date	6/12/01

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

Burden Hour Statement This form is estimated to take 0 2 hours to complete. Time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

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**NONPUBLICATION REQUEST
UNDER
35 U.S.C. 122(b)(2)(B)(i)**

First Named Inventor	Robert Wipfel
Title	METHOD FOR DETECTING AND RESOLVING . . .
Atty Docket Number	26530.60

I hereby certify that the invention disclosed in the attached application **has not and will not be** the subject of an application filed in another country, or under a multilateral agreement, that requires publication at eighteen months after filing.

I hereby request that the attached application not be published under 35 U.S.C. 122(b).

6.12.01

Date



Signature

Haynes & Boone, LLP
901 Main Street, Suite 3100
Dallas, Texas 75202-3789
214/651-5000 (phone)
214/651-5940 (fax)

David L. McCombs, Reg. No. 32,271

Typed or printed name

This request must be signed in compliance with 37 CFR 1.33(b) and submitted with the application **upon filing**.

Applicant may rescind this nonpublication request at any time. If applicant rescinds a request that an application not be published under 35 U.S.C. 122(b), the application will be scheduled for publication at eighteen months from the earliest claimed filing date for which a benefit is claimed.

If applicant subsequently files an application directed to the invention disclosed in the attached application in another country, or under a multilateral international agreement, that requires publication of applications eighteen months after filing, the applicant **must** notify the United States Patent and Trademark Office of such filing within forty-five (45) days after the date of the filing of such foreign or international application. **Failure to do so will result in abandonment of this application (35 U.S.C. 122(b)(2)(B)(iii)).**

Burden Hour Statement. This collection of information is required by 37 CFR 1.213(a). The information is used by the public to request that an application not be published under 35 U.S.C. 122(b) (and the PTO to process that request). Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This form is estimated to take 6 minutes to complete. This time will vary depending upon the needs of the individual case. Any comments on the amount of time you are required to complete this form should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, Washington, DC 20231. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Assistant Commissioner for Patents, Washington, DC 20231.

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: §
Wipfel et al. §
§
Serial No.: Continuation of 09/731,422 §
§
Filed: Herewith §
§
For: METHOD FOR DETECTING AND §
RESOLVING A PARTITION §
CONDITION IN A CLUSTER §

BOX NEW APPLICATION

Commissioner for Patents
Washington, D.C. 20231

EXPRESS MAIL CERTIFICATE

Express Mail Number: EL828065003US

Date of Deposit: 6-12-01

I hereby certify that the following attached papers and fee:

A New Continuation Utility Patent Application Transmittal; a Fee Sheet submitted in duplicate; Specification (25 pages); Drawing (4 sheets); a copy of executed Declaration/Power of Attorney (2 pages); Request for Non-Publication; a preliminary amendment; Information Disclosure Statement with attached Form PTO-1449; a check in the amount of \$782.00; and a return postcard

are being deposited with United States Postal Service "Express Mail Post Office to addressee" to the Commissioner for Patents, Washington, D. C. 20231.

Gayle Conner

Typed or Printed Name

Gayle Conner

Signature

6-12-01

Date